

REMARKS

Claims 1-3, 5 and 8-14 are pending in the application. Claims 4, 6, 7, 15-21 stand rejected by the Examiner as being drawn to a non-elected species.

Claims 1-3, 5 and 8-14 stand rejected under the doctrine of obviousness-type double patenting over claims 1, 6, 7, 10 and 16-20 of U.S. Patent No. 6,113,886. Accompanying this Response is a Terminal Disclaimer over the 6,113,886 patent which obviates the double patenting rejection.

Claims 1-3 and 8-14 stand rejected under the doctrine of obviousness-type double patenting over claims 28, 29, 33, 34 and 37 of U.S. Patent No. 5,876,995. Accompanying this Response is a Terminal Disclaimer over the 5,876,995 patent which obviates the double patenting rejection.

Claims 1-3, 5, 8, 10 and 12-14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over PROMT Accession No. 92:493162 or PROMT Accession No. 92:493161 in view of Prasher et al. According to the Office Action, the PROMT Accession No. 92:493162 and PROMT Accession No. 92:493161 references disclose a fluorescent green, purple or orange bubble bath product, while the Prasher et al. reference teaches a green-fluorescent protein. Applicant respectfully traverses this rejection.

The “fluorescent” colors referred to in the PROMT Accession No. 92:493162 and PROMT Accession No. 92:493161 references refer to the packaging of the product, not the bubble bath itself. For example, the PROMT Accession No. 92:493162 reference discloses bubble bath offered in a green bottle molded in a shape similar to that of a Ninja turtle. According to the reference, the fluorescent green recyclable/reusable container can be used as a toy or bank when it is empty. Similarly, the PROMT Accession No. 92:493161 reference discloses bubble bath which comes in a raison-shaped molded plastic bottle in either fluorescent purple, orange or green color. The color of packaging is said to be “fluorescent” but not the bubble bath itself. None of the references alone, or in combination, teach fluorescent bubble products. It is therefore submitted that claims 1-3, 5, 8, 10 and 12-14 are patentable over the PROMT Accession No. 92:493162, PROMT Accession No. 92:493161 and Prasher et al. references.

Claims 1-3, 5, 8, 10 and 12-14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Halbritter '631 in view of Prasher et al. According to the Office Action, Halbritter '631 discloses bubble making solutions comprising a chemical chemiluminescent generating system, while Prasher et al. discloses a green-fluorescent protein. Applicant respectfully traverses this rejection.

As said forth in detail in Applicant's specification, fluorescent proteins are distinct from chemiluminescent systems. One skilled in the art of chemiluminescent light generating systems would conceivably look within the class of other chemiluminescent generating systems for possible substitutes. However, one skilled in the art would not look to the non-analogous art of fluorescent proteins for possible substitutes for chemiluminescent materials. Moreover, neither Halbritter '631 nor Prasher et al. teaches or suggests that a green-fluorescent protein could be used in bubbles or bubble products. Absent such a teaching or suggestion, it is respectfully submitted that the rejection based upon Halbritter '631 and Prasher et al. is improper and should be withdrawn.

In view of the foregoing remarks, it is submitted that claims 1-3, 5 and 8-14 are patentable over the prior art of record. Accordingly, an early Notice of Allowance of this application is respectfully requested.

In the event that any outstanding matters remain in connection with this application, the Examiner is invited to telephone the undersigned at (412) 263-4340 to discuss such matters.

Respectfully submitted,



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